

## LABOUR DEPARTMENT

The 4th February, 1974

No. 663-4Lab-74/3193.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workman and management of M/s Haryana Roadways, Rohtak.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA  
ROHTAK

Reference No. 117 of 1972

*between*

Shri Balbir Singh and the management of Haryana Roadways, Rohtak

*Present—*

Shri S.N. Vats, for the workman

Shri Suresh Chander, for the management

## AWARD

Shri Balbir Singh concerned workman had joined service with the Haryana Roadways, Rohtak as a Conductor some time in 1971. On 5th July, 1971 he was given a charge-sheet that on 8th February, 1971 his bus No. 4236 driven by Shri Daya Ram Driver was checked by the Flying Squad at village Purkhash on Sonapat Moimajra road when 12 passengers were found ticketless although the necessary fare from them had been charged by him. He submitted his explanation to this charge-sheet on 8th July, 1971, which is Exhibit W. 1 on record, denying the above charge levelled against him. This explanation was considered by the General Manager, Haryana Roadways, Rohtak but found to be unsatisfactory and an enquiry was ordered against him appointing the Traffic Manager as the Enquiry Officer vide order dated 9th July, 1971. After holding the enquiry, the Enquiry officer found the conductor guilty of the above charge levelled against him and submitted his report accordingly to the General Manager on 1st September, 1971, where upon show-cause notice was given to him on 14th September, 1971 as to why his services should not be terminated. He submitted his reply to the show-cause notice on 21st September, 1971, which is Exhibit M.7 on record, which was also considered by the General Manager but not found to be satisfactory and relying upon the finding of guilty given against him by the Enquiry Officer the services of Shri Balbir Singh were terminated,—vide order dated 12th October, 1971.

Feeling aggrieved by the above order, Shri Balbir Singh raised a demand for reinstatement contending that the above said charge had falsely been levelled against him and that when the Flying Squad arrived he was in the process of issuing tickets to the 8 passengers who had got into the bus at village Panchi, but the Flying Squad Officer charged the fare from the passengers and snatched the un-punched tickets from him and, in the circumstances, he was not liable for any action on account of the said misconduct in the discharge of his duty. The management did not acceded to his demand for reinstatement and payment of back wages. Conciliation proceedings also ended in failure and on receipt of the failure report from the Conciliation Officer, the Governor of Haryana referred the above dispute for adjudication to this court vide order No. ID/RK/182-A-71/11487-91, dated 4th April, 1972, in exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947, with the following term of reference.

“Whether the termination of services of Shri Balbir Singh was justified and in order? If not, to what relief is he entitled?”

The parties put-in their respective written statements. The workman Shri Balbir Singh denied the charge of mis-appropriation in collecting the fare from the passengers without issuing tickets to them. He also questioned the validity of the enquiry. The management on the other hand, re-iterated the above said charge against Shri Balbir Singh and pleaded that the impugned order of the termination of his service had been passed after holding a just and proper enquiry. The issue that arose for determination in the case from the pleadings of the parties was precisely the same as per the term of reference stated above.

The management has placed on record the enquiry proceedings in original and examine Shri O. P. Sharma, Clerk concerned to prove the same. The workman has made his own statement besides examining one witness Shri Daya Ram, Driver.

The case has been fully argued on both sides and I have been taken through the entire evidence on record. The question of the validity of the enquiry has to be decided first. It has been vehemently argued on behalf of the workman that no proper enquiry was held in the presence of the workman nor was he given adequate opportunity of being heard. Several contentions have been raised in this behalf by the learned representative of the workman.

To begin with, it has been argued that according to the Way, Bill, Exhibit M.1 on record, the bus was checked by the Flying Squad at village Panchi but in the charge-sheet given to him the place of checking the bus has been described as Purkhash. There is not much force in this contention. There does not seem to be much of distance between villages Panchi and Purkhash. In the charge-sheet specific allegation against the workman is that his bus had been checked at Purkash and this had been done after seeking necessary clarification from the Flying Squad vide letters Exhibit. M5 and M6. It could not, therefore, be said that there was any confusion or ambiguity about the place of the checking of the bus or the workman had been in any way prejudiced by the contradictory entries in this behalf in the Way-Bill and the charge-sheet. In the charge-sheet it was clearly mentioned that his bus was checked at Purkhash when 12 passengers had been found without tickets although the fare from them had been collected by the Conductor.

It has next been argued that no adequate opportunity was given to this workman by the Enquiry Officer. The notice of the date of enquiry was received by him on 4th August, 1971 i.e. on the very day the enquiry was to be conducted and the statement of Shri Raj Kumar Flying Squad Officer was recorded. A perusal of the enquiry proceedings will show that the Enquiry Officer had fixed an earlier date for the enquiry i.e. 22nd July, 1971 when for one reason or the other the Flying Squad Officer could not appear possibly on account of his engagement some where else. The enquiry was, therefore, adjourned to 4th August, 1971. Even if it be assumed for the sake of argument that the notice of the said date of enquiry fixed by the Enquiry Officer was shor as it was served upon him on that very day although issued 2 days earlier on 2nd August, 1971, it could not be said that he was unaware of the charge levelled against him by the management which he had to meet in the said enquiry. Having appeared before the enquiry officer on 22nd July, 1971 on receipt of the charge-sheet earlier he had had enough opportunity to meet the charge and prepare his defence.

Still another argument advanced on behalf of the workman is that after recording the statement of the witnesses of the management on 4th August, 1971 the workman was called upon to produce his defence on that very day and as such he had no adequate opportunity to arrange for his defence. This contention again is devoid of force and is belied by the facts on record. The letter for producing the defence was no doubt issued to him on 4th August, 1971 which he admittedly received on the same day, but a perusal of the letter would show that he was required to produce his defence on 6th August, 1971 on which date he actually examined one witness Shri Dhupa besides making his own statement that he did not want to produce any other defence. There is nothing on the record to indicate that this letter has been falsely prepared or fabricated by the managements and the statements having been signed both by Dhupa and the workman himself on 6th August, 1971, he can not now be heard to say that these statements were recorded on 4th August, 1971.

On receipt of the finding of guilty against him from the Enquiry Officer, vide his report dated 1st September, 1971 he was given a final show-cause notice to which he submitted his reply on 14th September, 1971. The above points now raised in the present proceedings were not taken by the workman in that reply to the show-cause notice and as such these allegations have to be held to be only as an after-thought.

There is still another aspect of the case, the Enquiry Officer was an independent person having no prejudice against this workman, at least no such suggestion has been made in the case, nor was he a witness of the occurrence. He held the enquiry independently after giving full opportunity to the workman. It has not been shown that his finding was in any way perverse and not based on facts and that being so there is no reason to disbelieve his version.

On merits also the workman has obviously no case to make out. According to his own witness Shri Dhupa examined in the enquiry a ten rupee note had been given to him but the tickets had not been issued to the passengers. Shri Balbir Singh concerned workman has stated that only 8 passengers had boarded the bus but the Flying Squad had found 12 passengers without tickets. Shri Dhupa who had been examined before the Enquiry Officer has not been produced in the present proceedings to deny or contradict his above statement made before the Enquiry Officer. No other passenger of the bus was examined by the workman before the enquiry Officer or in the present proceedings to support his contention that he had not realised the fare from the passengers and was still in the process of issuing tickets to them when the Flying Squad arrived.

My attention has been drawn to the statement of Shri Daya Ram, Driver W. W. 1 who has tried to support Shri Balbir Singh but no weight can be attached to his statement because while he was drawing the bus he could not be expected to judge the exact situation regarding the collection of the fare and issuing of tickets by the Conductor to each and every passenger. He was not examined by the Conductor in his defence before the Enquiry Officer. He can not be considered to be a disinterested witness.

So, for the reasons aforesaid I do not find any thing wrong about the departmental enquiry held against the workman concerned and the punishment of the termination of services award to him after a just and proper domestic enquiry holding him guilty of the charge of misappropriation as discussed above. Before taking this action he was given the final show cause notice also as required by the rules and he had submitted his reply which was considered by the punishing authority. At this stage, it has been urged on behalf of the workman that the General Manager, Haryana Roadways, Rohtak was not competent to pass the impugned order. The contention is devoid of force. The General Manager being the appointing and the punishing authority in respect of the workman concerned, he was fully competent to issue this order which in the circumstances of the case cannot by any stretch of imagination be held to be harsh or not commensurate with the guilt of the workman.

In view of the facts and circumstances of the case and my findings above, the issue involved is decided against the workman and it is held that the termination of his services was justified and in order and in the result, he is not entitled to any relief. The award is made accordingly but without any order as to costs.

Dated 15th January, 1974.

O. P. SHARMA,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 161, dated 17th January, 1974.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments Haryana, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak

The 5th April, 1974

No. 2860-4Lab-74/10657.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workman and the management of M/s Ramesh Safe and Carding Works, Panipat.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,  
ROHTAK

Reference No. 45 of 1973

between

SHRI RAM LAL AND THE MANAGEMENT OF M/S RAMESH SAFE AND CARDING  
WORKS, PANIPAT

Present.—

Shri Harish Bagi, for the workman.

Nemo, for the management.

#### AWARD

By order No. ID/KNL/49-B-73/31863-67, dated 5th July, 1973, of the Governor of Haryana, the following disputes between the management of M/s Ramesh Safe and Carding Works, Panipat, and its workman Shri Ram Lal, was referred for adjudication to this Court, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 with the following term of reference:—

Whether the termination of services of Shri Ram Lal was justified and in order? If not, to what relief is he entitled?

The parties have arrived at an amicable settlement as per statement of Shri Harish Bagi, authorised representative of the workman who has received payment Rs. 850 in full and final settlement of his entire claims against the management including the right of reinstatement or re-employment.

In view of the above, no further proceeding called for in the case and a no-dispute award is made terms of the above settlement. There shall be no order as to costs.

Dated 21st March, 1974.

O. P. SHARMA,

Presiding Officer,  
Labour Court, Haryana, Rohtak.

No. 800, dated 27th March, 1974.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,  
Labour Court, Haryana, Rohtak.